

To: Tom Hagler/R9/USEPA/US@EPA[]
Cc: []
From: CN=Stephanie Skophammer/OU=R9/O=USEPA/C=US
Sent: Mon 3/5/2012 9:37:43 PM
Subject: Re: Fw: Purpose Statement
Pidlof@usbr.gov
[\(916\) 414-2404](tel:(916)414-2404)
pidlof@usbr.gov
hagler.tom@epamail.epa.gov

Okay, the purpose in the EIS is not the exact same as at the bottom of this email chain. I think things have been moved around but at least the problem language isn't in there.

Can I say that I am glad I am not a lawyer?

3. Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when
10 hydrologic conditions result in the availability of sufficient water, consistent with the
11 requirements of state and federal law and the terms and conditions of water delivery contracts
12 held by SWP contractors and certain members of San Luis Delta Mendota Water Authority, and
13 other existing applicable agreements

14 The above Purpose Statement reflects the intent to advance the coequal goals set forth in the
15 Sacramento–San Joaquin Delta Reform Act of 2009 of providing a more reliable water supply for
16 California and protecting, restoring, and enhancing the Delta ecosystem. The above phrase—restore
17 and protect the ability of the SWP and CVP to deliver up to full contract amounts—is related to the
18 upper limit of legal CVP and SWP contractual water amounts and delineates an upper bound for
19 development of EIR/EIS alternatives, not a target. As indicated by the use of “up to full contract
20 amounts,” alternatives need not be capable of delivering full contract amounts on average in order
21 to meet the project purposes. It is not intended to imply that increased quantities of water will be
22 delivered under the BDCP. For the purpose of NEPA, alternatives that depict design capacities or
23 operational parameters that would result in deliveries of less than full contract amounts are
24 consistent with this purpose.

My observation in reading this chapter was that the "project objectives" (CEQA) were separated out from the "purpose statement" (NEPA). We've seen that before so it may not be a concern, but then again this project baffles me every day. Also, one of the CEQA objectives is an "economically viable" project.

Let me know if you want the whole chapter, I have an electronic copy but I've marked it up with notes.

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P

From: Tom Hagler/R9/USEPA/US
To: Stephanie Skophammer/R9/USEPA/US@EPA
Date: 03/05/2012 12:37 PM

Subject: Fw: Purpose Statement

Here's the language that we ultimately agreed to (way at the bottom).

I'll send you the problematic language in a minute.

Tom Hagler
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----- Forwarded by Tom Hagler/R9/USEPA/US on 03/05/2012 12:37 PM -----

From: "Nawi, David" <David_Nawi@ios.doi.gov>
To: Tom Hagler/R9/USEPA/US@EPA, Michael Tucker <michael.tucker@noaa.gov>
Cc: Deanna Harwood <Deanna.Harwood@noaa.gov>, "Barajas, Federico" <FBarajas@usbr.gov>, "Monroe, Jim" <James.Monroe@sol.doi.gov>, Karen Schwinn/R9/USEPA/US@EPA, "Belin, Letty" <Letty_Belin@ios.doi.gov>, "Chotkowski, Michael" <michael_chotkowski@fws.gov>, "Idlof, Patricia S (Patti)" <Pidlof@usbr.gov>, "Allen, Kaylee" <Kaylee.Allen@sol.doi.gov>
Date: 02/23/2012 09:25 AM
Subject: RE: Purpose Statement

I just spoke to Mark. He has not intended to propose the change Mike Tucker distributed, and has agreed to incorporate just the added sentence in the language currently on the website and reflected in my earlier email. I believe (and hope) that this issue is closed, at least for now.

From: Tom Hagler [mailto:Hagler.Tom@epamail.epa.gov]
Sent: Wednesday, February 22, 2012 10:42 AM
To: Michael Tucker
Cc: Nawi, David; Deanna Harwood; Barajas, Federico; Monroe, Jim; Karen Schwinn; Belin, Letty; Chotkowski, Michael; Idlof, Patricia S (Patti)
Subject: Re: Purpose Statement

Karen is having a nice break in Hawaii, so I will give you some initial comments. These are necessarily abbreviated.

(1) It is troubling that we are reopening something that was represented to all of us as being closed more than a year ago. It is also troubling that there now appear to be two different purpose statements - a federal view and a state or contractor view. I'm not sure how that would or should be evaluated under NEPA or CEQA. It may have happened before, but it can't be anything but complicated.

(2) The action agencies have wide latitude to define their project purpose. But the scope of the proposed project

determines the scope of the alternatives that must be evaluated. The federal action agency letter from late 2010, which is reflected in the federal purpose statement, provided the basis for characterizing the BDCP as a change in the method of conveyance through or around the Delta. That is a fairly narrow project purpose that would have a correspondingly narrow set of alternatives.

If, on the other hand, the project purpose is to significantly increase exports (that is, a water supply augmentation purpose), that is a different project that would require a broader set of alternatives.

(3) Although there are some differences between 404 and NEPA, this same issue of project purpose and scope of alternatives arises in the 404 context.

And that's about it for first reactions.

(And thanks to Rhonda Reed for her comments at the State Board hearing yesterday. It was nice to see NMFS, DFG, and EPA saying the same thing in terms of moving the Board process forward.)

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From: Michael Tucker <michael.tucker@noaa.gov>
To: "Idlof, Patricia S (Patti)" <Pidlof@usbr.gov>
Cc: "Nawi, David" <David_Nawi@ios.doi.gov>, Karen Schwinn/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA, "Belin, Letty" <Letty_Belin@ios.doi.gov>, "Barajas, Federico" <FBarajas@usbr.gov>, Deanna Harwood <Deanna.Harwood@noaa.gov>, "Monroe, Jim" <James.Monroe@sol.doi.gov>, "Chotkowski, Michael" <michael_chotkowski@fws.gov>
Date: 02/22/2012 09:28 AM
Subject: Re: Purpose Statement

Unfortunately, the text that Mark provided below is quite different from what has shown up in the draft document provided by ICF (Chapter 2 of EIR/EIS). The new draft includes Mark's addition, but also includes several other key words and qualifying phrases that I had not seen before (attached with differences highlighted). I think that all the Fed agencies need to look at this and decide if we can accept the new changes.

Mike

On Tue, Feb 21, 2012 at 4:14 PM, Idlof, Patricia S (Patti) <Pidlof@usbr.gov> wrote:
David,
Reclamation is agreeable to adding the proposed hi-lighted sentence below to the Purpose and Need Statement

contained in Chapter 2 of the BDCP EIR/EIS.

Patti Idlof
Office: (916) 414-2404
pidlof@usbr.gov

From: Nawi, David
Sent: Monday, February 13, 2012 4:27 PM
To: Karen Schwinn; hagler.tom@epamail.epa.gov; Belin, Letty; Idlof, Patricia S (Patti); Barajas, Federico; 'Deanna Harwood'; Monroe, Jim; Michael Tucker; Chotkowski, Michael
Subject: Purpose Statement

Mark Cowin would like to add the highlighted language to the purpose statement in the current version of the DEIS/EIR, set out below. The language is a direct quote from the October 26, 2010 letter from the three federal lead agency RDs to EPA (letter attached for you reference, as well as Chapter 2 of draft BDCP, see p. 5 for relevant language). As I understand it, the intent in proposing the inclusion of the added language is to make clear that the language is focused on average amounts.

Please provide a reaction to the proposed additional language, and include anyone else who should review this.

The above Purpose Statement reflects the intent to advance the coequal goals set forth in the Sacramento–San Joaquin Delta Reform Act of 2009 of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The above phrase—restore and protect the ability of the SWP and CVP to deliver up to full contract amounts— is related to the upper limit of legal CVP and SWP contractual water amounts and delineates an upper bound for development of EIR/EIS alternatives, not a target. It is not intended to imply that increased quantities of water will be delivered under the BDCP. As indicated by the "up to full contract amounts" phrase, alternatives need not be capable of delivering full contract amounts on average in order to meet the project purposes. Alternatives that depict design capacities or operational parameters that would result in deliveries of less than full contract amounts are consistent with this purpose.

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Michael Tucker
BDCP Branch Supervisor
NOAA Fisheries Central Valley Office
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